

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Rodney Moucell Jones,)	C/A No.: 0:05-865-JFA
#185922,)	
)	
Petitioner,)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina; John Ozmint, Director)	
of the South Carolina Department of Corrections;)	
and Henry D. McMaster, Attorney General of the)	
State of South Carolina,)	
)	
Respondents.)	
_____)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the report and recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1).

The *pro se* petitioner, Rodney Moucell Jones, is an inmate with the South Carolina Department of Corrections. Mr. Jones brings this petition (filed March 9, 2005) pursuant to 28 U.S.C. § 2254 seeking relief from his 2001 *Alford* plea in state court.

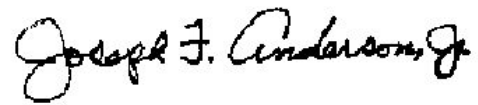
In a detailed and comprehensive Report and Recommendation, the Magistrate Judge opines that the petition is time-barred under 28 U.S.C. § 2244(d) and is not entitled to equitable tolling.

The petitioner was advised of his right to file objections to the Report and Recommendation which was filed August 29, 2005. The petitioner filed a 26-page objection to the Report and Recommendation on September 15, 2005 and supplemental objections on October 12, 2005. The court has conducted the required *de novo* review of those portions of the Report and Recommendation to which objections have been made.

After careful review of the record in this case, the applicable law, and the Report and Recommendation and the petitioner's objections, the court agrees with the Magistrate Judge that this action is time-barred. The court further agrees with the Magistrate Judge that the petitioner has made no showing of actual innocence and therefore, is not entitled to equitable tolling. Although the petitioner has raised claims of actual innocence, he has presented no evidence that he did not commit the crime charged. Accordingly, the Report and Recommendation is incorporated herein by reference, and this action is dismissed with prejudice.

IT IS SO ORDERED.

November 15, 2005
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

/s/ Joseph F. Anderson, Jr.
United States District Judge